

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ROBERT McDEVITT	:	CIVIL ACTION
Plaintiff,	:	
	:	
vs.	:	NO. 03-5386
	:	
JO ANNE B. BARNHART	:	
Commissioner of SOCIAL SECURITY	:	
ADMINISTRATION	:	
	:	

ORDER

AND NOW, this 21st day of June, 2005, upon consideration of the pleadings and the record herein, and after review of the Report and Recommendation of United States Magistrate Judge Charles B. Smith dated February 24, 2005, no objections having been filed, **IT IS ORDERED** as follows:

1. The Report and Recommendation of United States Magistrate Judge Charles B. Smith dated February 24, 2005, is **APPROVED** and **ADOPTED**;
2. The Motion for Summary Judgment filed by Jo Anne B. Barnhart, Commissioner of Social Security, is **DENIED**;
3. Plaintiff's Motion for Summary Judgment is **GRANTED**;
4. The Final Decision of Jo Anne B. Barnhart, Commissioner of Social Security, denying plaintiff's Disability Insurance Benefits under Title II of the Social Security Act, 42 U.S.C. § 401, *et seq.*, is **REVERSED**; and,
5. The matter is **REMANDED** to Jo Anne B. Barnhart, Commissioner of Social Security, for calculation of benefits.

BY THE COURT:

/s/ Honorable Jan E. DuBois
JAN E. DUBOIS, J.